

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RICHARD A. McCURDY, JR., et al. : CIVIL ACTION  
:   
: NO. 02-2879  
v. :   
:   
WILLIAM STANCILL, et al. :

O R D E R

AND NOW, this            day of            , 2003, upon  
consideration of the Motion of Plaintiffs for a Protective Order  
Regarding the Continuation of the Deposition of Perry N.  
Blackman, CPA, and any response thereto, it is hereby ORDERED and  
DECREED that said Motion is granted and any additional deposition  
of Perry N. Blackman, CPA, be limited to one hour in duration and  
that Mr. Blackman shall be compensated at his customary hourly  
rate for any and all time in connection with the deposition  
including, but not limited to, preparation time, travel time and  
deposition time.

BY THE COURT:

\_\_\_\_\_  
Dalzell, J.

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RICHARD A. McCURDY, JR., et al.	:	CIVIL ACTION
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	:	NO. 02-2879
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	:	
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**MOTION OF PLAINTIFFS FOR A PROTECTIVE ORDER  
REGARDING PROPOSED CONTINUATION OF DEPOSITION  
OF PERRY N. BLACKMAN, CPA**

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Plaintiffs, by and through their attorneys, Masterson, Braunfeld & Milner, LLP, hereby move this Court pursuant to Federal Rule of Civil Procedure 26(c) for a Protective Order Regarding the Continuation of the Deposition of Perry N. Blackman, CPA and in support thereof aver as follows:

1. Defendants sought and Plaintiffs produced Perry N. Blackman, CPA for deposition on December 20, 2002 at the offices of Defendants' counsel. That deposition took place for between two and two and one-half hours.

2. Mr. Blackman is both a fact and expert witness. He is a fact witness insofar as he was intimately involved with efforts to obtain relevant records to ascertain the amount of contributions owed the Philadelphia Laborers' District Council Benefit Fund by Pyramid Construction Group and engaged in a series of meetings and discussions with representatives of the

Defendants, as well as representatives of Pyramid Construction Group. He is also an expert witness insofar as he prepared a report setting forth his conclusions regarding the amount of benefit fund contributions owed by Pyramid. A true and correct copy of Mr. Blackman's report is attached as Exhibit "A" hereto.

3. On December 20, 2002, Mr. Blackman was asked and answered questions regarding facts and circumstances surrounding the audit of Pyramid Construction Group. Mr. Blackman also answered questions regarding his methodologies, assumptions and formulas employed in reaching the conclusions set forth in Exhibit "A."

4. Because Pyramid Construction Group failed to maintain or produce routine employment records customarily relied upon in performing payroll audits and failed to make routine filings with state and federal governmental agencies pertaining to payroll, Mr. Blackman was forced to perform his audit based upon reconstructed payroll and work records based upon those records that were produced by Pyramid.

5. Defendants have now requested to continue the deposition of Mr. Blackman to have Mr. Blackman guide them through every individual finding in the report making reference back to individual checkstubs, entries and calculations.

6. Plaintiffs respectfully submit that such an exercise is oppressive, burdensome and well beyond the scope of the witness'

obligations. For the reasons set forth in the accompanying memorandum of law, Plaintiffs respectfully ask that any continuation of the deposition of Mr. Blackman be limited to one hour and that Mr. Blackman be compensated at his hourly rate for any and all time in connection with same.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court enter the attached Order granting Motion of Plaintiffs for a Protective Order.

Respectfully submitted,

MASTERSON, BRAUNFELD & MILNER, LLP

By:

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Nancy L. Goldstein, Esquire  
Identification No. 40019  
Suite 702, One Montgomery Plaza  
Norristown, PA 19401  
(610) 277-1700  
Attorney for Plaintiffs

**CERTIFICATION OF GOOD FAITH**

I hereby certify that I have conferred with Gary M. Gusoff, Esquire, in an effort to resolve these issues without the need for court action.

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Nancy L. Goldstein, Esquire

**CERTIFICATION OF SERVICE**

I, Nancy L. Goldstein, Esquire hereby certify that on the 31st day of December, 2002, I caused a true and correct copy of the Motion of Plaintiffs for a Protective Order Regarding Proposed Continuation of Deposition of Perry N. Blackman, CPA, and Memorandum of Law in support thereof, to be served upon the following counsel by transmitting same via facsimile number (215) 717-1220.

Gary M. Gusoff, Esquire  
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Suite 1250, One Penn Center  
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215-717-1212  
Attorney for Defendant  
William Stancill

MASTERSON, BRAUNFELD & MILNER, LLP

By: \_\_\_\_\_  
Nancy L. Goldstein, Esquire

Dated: \_\_\_\_\_